

UNITED STATES U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: KEURIG GREEN MOUNTAIN	:	ECF Case
SINGLE SERVE COFFEE ANTITRUST	:	
LITIGATION	:	1:14-md-2542-VSB-HBP
	:	
	:	MDL No. 2542
	:	
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JBR, Inc. (D/B/A ROGERS FAMILY	:	
COMPANY),	:	1:14-cv-04242-VSB-HBP
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
KEURIG GREEN MOUNTAIN, INC.	:	
(F/K/A GREEN MOUNTAIN COFFEE	:	
ROASTERS, INC. AND AS SUCCESSOR	:	
TO KEURIG, INC.),	:	
	:	
Defendant.	:	
	:	
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**DECLARATION OF MICHAEL SARINA IN SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION**

I, Michael Sarina, declare:

1. I have personal knowledge of the facts set forth herein, and if called upon to testify, I could and would competently testify to the statements made herein. I submit this declaration in support of Plaintiff JBR, Inc.'s, d/b/a Rogers Family Coffee Company's ("Rogers") Motion for a Preliminary Injunction.

2. I am the Chief Financial Officer of Rogers with responsibilities for accounting, finance, banking and information technology. I have served as the Chief Financial Officer of Rogers since November 5, 2007.

3. Since Rogers introduced its portion pack product, called the “OneCup,” in October 2011, Rogers has been focusing its general business, sales and marketing strategy on OneCup as more and more consumers have switched from traditional brewers to single-serve brewers and the OneCup business has become a critical part of Rogers’ business. Each year, Rogers’ OneCup business has become a more substantial and essential part of its overall business:

Fiscal Year*	OneCups Sold	Gross Sales of OneCups	Percentage of Total Gross Sales
2012	██████████	██████████	██████████
2013	██████████	██████████	██████████
2014	██████████	██████████	██████████
2015*	██████████	██████████	██████████

* Fiscal Year ends March 31.

**** Through July 31, 2014**

4. As a result, Rogers has made significant investments in its OneCup business. Rogers spent over [REDACTED] on the development of its OneCup product in the fiscal year ended March 31, 2013 and a similar amount in the fiscal year ended March 31, 2012. In addition, Rogers has invested significantly in manufacturing equipment, which now includes: [REDACTED]

In total,
Rogers has invested [REDACTED] in machinery for OneCup production equipment, most of which has been financed over [REDACTED]. As of July 31, 2014, the remaining debt obligation for the OneCup packaging equipment was [REDACTED]

5. Keurig's conduct already has had significant negative impacts on Rogers' business. Shortly after Rogers launched its OneCup business, Keurig filed patent litigation against Rogers in federal court in Massachusetts. Although Rogers was able to obtain summary judgment on Keurig's claims, which was affirmed after Keurig appealed the decision, the lawsuit

required Rogers to devote significant resources to the defense of the baseless lawsuit, including approximately [REDACTED] in legal costs and fees. In addition, Keurig has almost entirely foreclosed Rogers from selling its OneCup product to office supply distributors as a result of its exclusive Keurig Authorized Distributor agreements that prohibit Keurig's distributors from selling any competing portion pack products. Rogers' sales of OneCup products to customers in the office supply segment have accounted for [REDACTED] percent (approximately [REDACTED] of Rogers' total OneCup sales during the past twelve months.

6. Although Keurig has not yet launched its Keurig 2.0 brewers, which it claims will not work with non-licensed portion packs, such as Rogers' OneCups, Rogers' business already has been impacted. In particular, Rogers has suffered the loss of many business opportunities in the grocery retailer sector, in which many grocers are developing new private label products, including organic or premium private label products, to meet the growing consumer demand. In the past year, Rogers has been selected to develop new private label products for multiple grocers, including Wakefern and Big Y, only to have the retailers delay or cancel the projects after meeting with Keurig and expressing concern that non-licensed products like Rogers' will not work with Keurig's forthcoming Keurig 2.0 brewers.

7. There is every reason to believe that, if the Keurig 2.0 brewer is allowed to launch with a feature – marketed and publicized by Keurig – that locks out competing portion packs and makes them inoperable, Rogers will lose significantly more business. Not only will the launch of the product reduce the consumer base for Rogers' product as current consumers replace their current brewers with the Keurig 2.0 brewer, but may result in confusion among consumers about whether Rogers' product will work even in existing Keurig brewers. For example, Costco, Rogers' original and by far largest customer, already has informed Rogers that it will be concerned about potential customer confusion surrounding Keurig's launch of a Keurig 2.0 brewer that will not work with unlicensed portion packs and thus will require Rogers to change its packaging to prominently state that its product will not work with Keurig 2.0 brewers.

8. [REDACTED]

[REDACTED]

9. Loss of Rogers' OneCup business also would have a significant impact on its employees. Rogers has 93 full-time equivalent employees in Lincoln, California that work exclusively on the OneCup product and thus whose jobs would be eliminated if Rogers no longer had a OneCup business. These employees include: 44 packers, 16 machine operators, two (2) material handlers, 14 quality control associates, 10 mechanical technicians and seven (7) shipping associates.

I further represent under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 11, 2014

By Michael Sarina
Michael Sarina